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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,229	11/30/2001	Yakov Kamen	007287.00015	6955
22907 7590 01/02/2008 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051			EXAMINER RAMAN, USHA	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 01/02/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/008,229

Applicant(s)

KAMEN ET AL.

Examiner

Usha Raman

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Miscellaneous***

1. Please note that the examiner of record has changed.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 6<sup>th</sup>, 2007 has been entered.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 7 and 13 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 5, 7, 11 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bedard (US Pat. 5,801,747).

With regards to claims 1 and 7, Bedard discloses a method comprising the steps of:

Providing a first set of categories of broadcasted programs (EPG) (see column 3, lines 16-17)

Providing a second set of categories of broadcasted programs (viewer profile array, see column 4, lines 27-37);

Adding a first category from the first set (EPG) to the second set of categories of broadcasted programs in response to tuning a broadcasted program viewing device to a broadcasted program fitting into the first category of the first set of categories for a predetermined number of viewing times (viewing units), wherein the predetermined number of viewing times is greater than one (see column 4, lines 49-65, column 5, lines 6-10).

With further regards to claim 7, Bedard teaches embodying the methods described above on a set top unit, implemented in software (see column 3, lines 6-8, lines 57-62). Accordingly Bedard further reads on the limitations of "computer readable media storing instructions that when executed by a processor cause the processor to perform the method".

With regards to claims 5 and 11, Bedard discloses the step of tuning a broadcast program viewing device to a channel on which a broadcast predetermined to be in a second category from the second set is broadcasted currently (see column 7, lines 44-50), upon receiving a viewer initiated command with only one keypress of the remote control (see column 7, lines 47-55).

Examiner further notes that there exist scenarios wherein the user can initiate

such commands at a current time, when the program is expected to broadcast within a predetermined threshold of a current time.

With regards to claim 19, Bedard discloses that the first and second sets are located in a set top box (see column 3 lines 16-17, column 4, lines 26-29)

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard in view of Ohkura (US Pat. 6,128,009).

With regards to claims 2 and 8, Bedard discloses removing a second category (entry) to create room for the first category (See column 5, lines 20-26). Bedard is however silent on the step of removing a second category from the second set upon selecting the second category from the second set.

In a similar field of endeavor, Ohkura discloses an EPG system wherein a category can be removed by selecting the category from a second set of registered programs of frequently viewed programs (see 24H figure 4 and column 28, lines 41-60). Ohkura is thus evidence to one of ordinary skill in the art for enabling removal of genre/category from a history list, when the viewer does not want that category to be considered for recommendations.

It would have been obvious to one of ordinary skill in the art to modify the system of Bedard in view of Ohkura's teachings by allowing a user to delete a category that user deems least relevant.

8. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard in view of Mori (US PG Pub. 2004/0210932)

With regards to claims 3 and 9, Bedard discloses the step of removing the least recently used second category from the second set (see column 5, lines 24-26) and therefore teaches removing the program predetermined to be in the second category from the second set that has not been tuned recently. Bedard is however silent on the step of removing when the program predetermined to be in the second category from the second set has not been tuned for a period of time at least equal to a first predetermined threshold.

In a similar field of endeavor, Mori teaches an EPG system wherein the second set (104 Fig. 40 and favorite genre Fig. 41) upon a broadcasted program viewing device (107 Fig. 40) not being tuned for a period of time at least equal to a first predetermined threshold (i.e. the retention period, see [0328] lines 12-14).

It would have been obvious to one of ordinary skill in the art to modify Bedard to include an automatic category removal method as taught by Mori, for the purpose of automatically removing categories that were added by one time user who tuned to a program that the regular user would not normally view.

9. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard in view of McClard (US Pat. 6,438,752)

With regards to claims 4 and 10, Bedard discloses the step of tuning a broadcast program viewing device to a channel on which a broadcast predetermined to be in a second category from the second set is broadcasted currently (see column 7, lines 44-50). Bedard is however silent on the step of tuning when the program will be broadcasted within a predetermined threshold of current time.

In an analogous art, McClard teaches an EPG system wherein the processor tunes a broadcasted program viewing device (40 Fig. 3) to a channel on which a broadcasted program predetermined to be in a category from the second set will be broadcasted within a predetermined threshold of a current time (column 7, lines 8-21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of McClard to configure the system to tune to a channel broadcasting a program that fits the user's interest without user intervention.

10. Claims 6, 12-14, 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard in view of Ohkura (US Pat. 6,128,009)

With regards to claims 6 and 12, Bedard does not disclose the step of verifying the adding of the first category from the first set to the second set including receiving user input confirming the addition of the first category.

Ohkura discloses a method of deleting from a second set, categories that user wishes to be excluded from registration (see column 28, lines 41-60). One of ordinary skill in the art can recognize that there are situations when a user does not want certain categories to be considered, it maybe bothersome for the viewer to manually search through the registration list for removal of the category.

Examiner further takes Official Notice that it was well known in the art at the time to verify the inclusion of information in a viewer profile. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of Ohkura's teachings for excluding certain categories by receiving viewer input confirming the addition of the first category to the viewer profile. Such a modified system would relieve the user of the burden of having to delete features from history at a later time.

With regards to claim 13, Bedard discloses a method comprising the steps of:

Providing a first set of categories of broadcasted programs (EPG) (see column 3, lines 16-17)

Providing a second set of categories of broadcasted programs (viewer profile array, see column 4, lines 27-37);

Adding a first category from the first set (EPG) to the second set of categories of broadcasted programs in response to tuning a broadcasted program viewing device to a broadcasted program fitting into the first category of



the first set of categories for a predetermined number of viewing times (viewing units), wherein the predetermined number of viewing times is greater than one (see column 4, lines 49-65, column 5, lines 6-10).

Bedard does not disclose the step of verifying the adding of the first category from the first set to the second set including receiving user input approves the addition of the first category.

Ohkura discloses a method of deleting from a second set, categories that user wishes to be excluded from registration (see column 28, lines 41-60). One of ordinary skill in the art can recognize that there are situations when a user does not want certain categories to be considered, it maybe bothersome for the viewer to manually search through the registration list for removal of the category.

Examiner further takes Official Notice that it was well known in the art at the time to verify the inclusion of information in a viewer profile. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system in view of Ohkura's teachings for excluding certain categories by receiving viewer approval, confirming the addition of the first category to the viewer profile. Such a modified system would relieve the user of the burden of having to delete features from history at a later time.

With regards to claim 14, the modified system of Bedard in view of Ohkura discloses removing a second category (entry) to create room for the first category (See Bedard: column 5, lines 20-26). Ohkura further discloses an EPG system

wherein a category can be removed by selecting the category from a second set of registered programs of frequently viewed programs (see 24H figure 4 and column 28, lines 41-60) that a user no longer wishes to be registered.

With regards to claim 17, the modified system comprises the step of tuning a broadcast program viewing device to a channel on which a broadcast predetermined to be in a second category from the second set is broadcasted currently (see Bedard: column 7, lines 44-50), upon receiving a viewer initiated command with only one keypress of the remote control (see Bedard: column 7, lines 47-55). Examiner further notes that there exist scenarios wherein the user can initiate such commands at a current time, when the program is expected to broadcast within a predetermined threshold of a current time.

With regards to claim 19, Bedard discloses that the first and second sets are located in a set top box (see column 3 lines 16-17, column 4, lines 26-29)

11. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard in view of Ohkura and Mori

With regards to claim 15, the modified system of Bedard in view of Ohkura discloses the step of removing the least recently used second category from the second set (see Bedard: column 5, lines 24-26) and therefore teaches removing the program predetermined to be in the second category from the second set that has not been tuned recently. Bedard is however silent on the step of removing when the program predetermined to be in the second category from the second

set has not been tuned for a period of time at least equal to a first predetermined threshold.

In a similar field of endeavor, Mori teaches an EPG system wherein the second set (104 Fig. 40 and favorite genre Fig. 41) upon a broadcasted program viewing device (107 Fig. 40) not being tuned for a period of time at least equal to a first predetermined threshold (i.e. the retention period, see [0328] lines 12-14).

It would have been obvious to one of ordinary skill in the art to further modify the system to include an automatic category removal method as taught by Mori, for the purpose of automatically removing categories that were added by one time user who tuned to a program that the regular user would not normally view.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bedard in view of Ohkura and McClard

With regards to claim 16, the modified system of Bedard in view of Ohkura discloses the step of tuning a broadcast program viewing device to a channel on which a broadcast predetermined to be in a second category from the second set is broadcasted currently (see column 7, lines 44-50). Bedard is however silent on the step of tuning when the program will be broadcasted within a predetermined threshold of current time.

In an analogous art, McClard teaches an EPG system wherein the processor tunes a broadcasted program viewing device (40 Fig. 3) to a channel

on which a broadcasted program predetermined to be in a category from the second set will be broadcasted within a predetermined threshold of a current time (column 7, lines 8-21).

It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the system in view of McClard to configure the system to tune to a channel broadcasting a program that fits the user's interest without user intervention.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Usha Raman whose telephone number is (571) 272-7380. The examiner can normally be reached on Mon-Fri: 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331.


The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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